



# AF 21W

PTO/SB/21 (09-04)

Approved for use through 07/31/2006. OMB 0651-0031

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## TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

Application Number	09/628,367
Filing Date	July 31, 2000
First Named Inventor	Michael C. Bailey et al.
Art Unit	2195
Examiner Name	Lewis A. Bullock, Jr.
Attorney Docket Number	GB9-2000-0083-US1

### ENCLOSURES (Check all that apply)

<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment/Reply 1.111 <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement  <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input checked="" type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) Second Notice of Appeal <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Postcard
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Remarks

### SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Winstead Sechrest & Minick, P.C.		
Signature			
Printed name	Robert A. Voigt, Jr.		
Date	March 30, 2006	Reg. No.	47,159

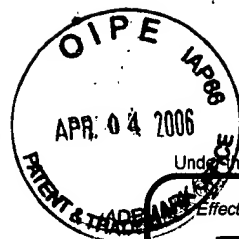
### CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature			
Typed or printed name	Beatrice Zepeda	Date	March 30, 2006

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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PTO/SB/17 (11-04)

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Effective on 10/01/2004. Patent fees are subject to annual revision.

# FEE TRANSMITTAL

## For FY 2005

☐ Applicant claims small entity status. See 37 CFR 1.27TOTAL AMOUNT OF PAYMENT (\$)**0.00****Complete if Known**

Application Number	09/628,367
Filing Date	July 31, 2000
First Named Inventor	Michael C. Bailey et al.
Examiner Name	Lewis A. Bullock, Jr.
Art Unit	2195
Attorney Docket No.	GB9-2000-0083-US1

**METHOD OF PAYMENT** (check all that apply)☐ Check ☐ Credit Card ☐ Money Order☒ Deposit Account ☐ NoneDeposit  
Account  
Number  
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Name

50-0563

IBM Corporation

The Director is hereby authorized to: (check all that apply)

☐ Charge fee(s) indicated below☐ Charge fee(s) indicated below, except for the filing fee☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17☒ Credit any overpayments

to the above-identified deposit account.

☐ Other (please identify):**WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**FEE CALCULATION****1. BASIC FILING FEE**

Fee Description	Fee (\$)	Small Entity	Fee Paid(\$)
		Fee (\$)	
Utility Filing Fee	790	395	
Design Filing Fee	350	175	
Plant Filing Fee	550	275	
Reissue Filing Fee	790	395	
Provisional Filing Fee	160	80	

Subtotal (1) \$ 0.00

**FEE CALCULATION** (continued)**2. EXTRA CLAIM FEES**

Fee Description	Fee (\$)	Small Entity
		Fee (\$)
Each claim over 20	50	25
Each independent claim over 3	200	100
Multiple dependent claims	360	180
For Reissues, each claim over 20 and more than in the original patent	50	25
For Reissues, each independent claim more than in the original patent	200	100

Total Claims	Extra Claims	Fee (\$)	Fee Paid (\$)
- 20 or HP = _____ x _____ = _____			
HP = highest number of total claims paid for, if greater than 20			

Indep. Claims	Extra Claims	Fee (\$)	Fee Paid (\$)
- 3 or HP = _____ x _____ = _____			
HP = highest number of independent claims paid for, if greater than 3			

Multiple Dependent Claims	Fee (\$)	Fee Paid (\$)

Subtotal (2) \$ 0.00

**3. OTHER FEES**

Fee Description	Fee (\$)	Small Entity	Fee Paid(\$)
		Fee (\$)	
1-month extension of time	120	60	
2-month extension of time	450	225	
3-month extension of time	1,020	510	
4-month extension of time	1,590	795	
5-month extension of time	2,160	1,080	
Information disclosure stmt. fee	180	180	
37 CFR 1.17(q) processing fee	50	50	
Non-English specification	130	130	
Notice of Appeal	500	250	
Filing a brief in support of appeal	500	250	
Request for oral hearing	1,000	500	
Other: Second Notice of Appeal			

Fees previously paid for First Notice of Appeal apply

Subtotal (3) \$ 0.00

**SUBMITTED BY**

Signature

Registration No.  
(Attorney/Agent)

47.159

Telephone 512.370.2832

Name (Print/Type)

Robert A. Voigt, Jr.

Date March 30, 2006

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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- 1 -

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	:	Before the Examiner:
Michael C. Bailey et al.	:	Lewis A. Bullock, Jr.
Serial No.: 09/628,367	:	Group Art Unit: 2195
Filed: July 31, 2000	:	
Title: METHOD, PROGRAM PRODUCT	:	IBM Corporation
AND COMPUTER SYSTEM FOR	:	P.O. Box 12195
PROGRESSIVE IMPROVEMENT	:	Dept. T81/503
OF AN ENVIRONMENT POOL	:	Research Triangle Park, NC 27709

**REPLY UNDER 37 C.F.R. §1.111**

Mail Stop Amendment  
 Commissioner for Patents  
 P.O. Box 1450  
 Alexandria, VA 22313-1450

Dear Sir:

In response to the Office Action having a mailing date of January 27, 2006, having a three-month shortened statutory period for response set to expire on April 27, 2006, Applicants respectfully reinstate the Second Appeal Brief filed on October 13, 2004 by filing herewith a second notice of appeal in compliance with 37 C.F.R. §41.31 and filing separately a complete new Appeal Brief (hereinafter "Third Appeal Brief") in compliance with 37 C.F.R. §41.37. Applicants note that any fees paid for the first notice of appeal and for the First and Second Appeal Brief previously paid

**CERTIFICATION UNDER 37 C.F.R. §1.8**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, on March 30, 2006.

Beatrice Zepeda  
 Signature

04/05/2006 MBIZUNES 00000030 500563 09628367  
 01 FC:1402 500.00 DA

Beatrice Zepeda  
 (Printed name of person certifying)

will be applied to this third appeal. Since, however, the appeal fees set forth in 37 C.F.R. §41.20 have increased since October 13, 2004, Applicants authorize the Director to charge \$340 (fee increased by \$170 to file a notice of appeal and fee increased \$170 to file an appeal brief), the difference between the current fees and the amount previously paid, to Deposit Account No. 50-0563.

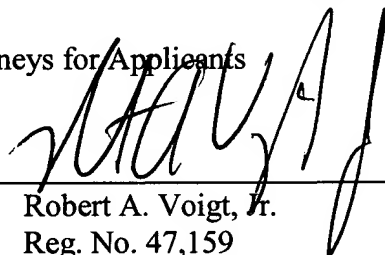
Applicant would like to make a request to Examiner Bullock, Jr., SPE Meng An and to the other SPE or acting group director involved in the pre-trial appeal conference that they will not reopen prosecution again, but instead, allow the Examiner to file an Examiner's Answer so as to reduce the delay and expense in prosecution of this case. This is Applicants' third appeal brief in response to the second time that the Examiner has reopened prosecution. The Examiner is continually reopening prosecution because those on the pre-trial appeal conference do not believe that the Examiner will be successful in the Appeal and hence have given the Examiner numerous opportunities to strengthen the Examiner's case. This is improper and unfair. How many bites at the apple does an Examiner get? All that results is increasing the pendency of the case and further delay.

Respectfully submitted,

WINSTEAD SECHREST & MINICK P.C.

Attorneys for Applicants

By: \_\_\_\_\_

  
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Kelly K. Kordzik  
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